

UNITED STATES DISTRICT COURT  
DISTRICT OF RHODE ISLAND

PEDRO ALVAREZ, JR.  
*Plaintiff,*

v.

C.A. No.: 1:19-cv-00392-WES-PAS

TOWN OF BURRILLVILLE;  
COL. STEPHEN C. LYNCH  
Of the Burrillville Police  
Department.  
*Defendants.*

**DEFENDANT, TOWN OF BURRILLVILLE, ANSWER TO PLAINTIFF'S  
COMPLAINT**

Now come Defendants, Town of Burrillville, Col. Stephen C. Lynch of the Burrillville Police Department, and answers Plaintiff, Pedro Alvarez, Jr.'s complaint as follows:

As to "Parties"

1. Defendants admit the allegations contained in Paragraph Nos. 1, 2 and 3 of that portion of the Plaintiff's complaint entitled "Parties."

As to "Jurisdiction and Venue"

2. Defendants admit the allegations contained in Paragraph Nos. 4 and 5 of that portion of the Plaintiff's complaint entitled "Jurisdiction and Venue."

As to "Facts"

3. Defendants neither admit nor deny the allegations contained in Paragraph No. 6 of that portion of the Plaintiff's complaint entitled "Facts." The referenced Rhode Island General Law speaks for itself.
4. Defendants admit the allegations contained in Paragraph Nos. 7 of that portion of the Plaintiff's complaint entitled "Facts."

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5. Defendants deny the allegations contained in Paragraph Nos. 8, 9, 10, 15, 17, and 18 in that portion of the Plaintiff's complaint entitled "Facts."
6. Defendants neither admit nor deny the allegations contained in Paragraph Nos. 11, 12, 13, 14, and 16 of that portion of the Plaintiff's complaint entitled "Facts," and leaves Plaintiff to his proof of same.

As to "Count I – Second Amendment Violation"

7. Defendants reassert and incorporate their responses to all of the allegations contained in Paragraph Nos. 1 through 18 as said allegations are incorporated in Paragraph No. 19.
8. Defendants neither admit nor deny the allegations contained in Paragraph Nos. 20, 21 and 22 of that portion of the Plaintiff's complaint entitled "Count I." The cited Second Amendment to the United States Constitution and the case of *District of Columbia v. Heller*, 554 U.S. 570 (2008) speaks for itself.
9. Defendants deny the allegations contained in Paragraph Nos. 23 and 24 of that portion of the Plaintiff's complaint entitled "Count I."

As to "Count II – Procedural Due Process Violation"

10. Defendants reassert and incorporate their responses to all of the allegations contained in Paragraph Nos. 1 through 24 as said allegations are incorporated in Paragraph No. 25.
11. Defendants neither admit nor deny the allegations contained in Paragraph No. 26 of that portion of the Plaintiff's complaint entitled "Count II." The Fourteenth Amendment to the United States Constitution speaks for itself.
12. Defendants deny the allegations contained in Paragraph Nos. 27, 28, 29, 30, 31 and 32 of that portion of the Plaintiff's complaint entitled "Count II."

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As to “Count III – Substantive Due Process Violation”

13. Defendants reassert and incorporate their responses to all of the allegations contained in Paragraph Nos. 1 through 32 as said allegations are incorporated in Paragraph No. 33.

14. Defendants neither admit nor deny the allegations contained in Paragraph No. 34 of that portion of the Plaintiff’s complaint entitled “Count III.” The referenced Amendments to the United States Constitution speak for itself.

15. Defendants deny the allegations contained in Paragraph No. 35 of that portion of the Plaintiff’s complaint entitled “Count III.”

As to “Count IV – Conspiracy to Interfere with Civil Rights”

16. Defendants reassert and incorporate their responses to all of the allegations contained in Paragraph Nos. 1 through 35 as said allegations are incorporated in Paragraph No. 36.

17. Defendants deny the allegations contained in Paragraph No. 37 of that portion of the Plaintiff’s complaint entitled “Count IV.”

As to “Count V – First Amendment Violation”

18. Defendants reassert and incorporate their responses to all of the allegations contained in Paragraph Nos. 1 through 37 as said allegations are incorporated in Paragraph No. 38.

19. Defendants neither admit nor deny the allegations contained in Paragraph Nos. 39 and 40 of that portion of the Plaintiff’s complaint entitled “Count V.” The First Amendment to the United States Constitution speaks for itself.

20. Defendants deny the allegations contained in Paragraph No. 41 of that portion of the Plaintiff’s complaint entitled “Count V.”

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As to “Count VI – Takings”

21. Defendants reassert and incorporate their responses to all of the allegations contained in Paragraph Nos. 1 through 41 as said allegations are incorporated in Paragraph No. 42.
22. Defendants deny the allegations contained in Paragraph No. 43 of that portion of the Plaintiff’s complaint entitled “Count VI.”

As to “Count VII – Injunctive Relief”

23. Defendants reassert and incorporate their responses to all of the allegations contained in Paragraph Nos. 1 through 43 as said allegations are incorporated in Paragraph No. 44.
24. Defendants deny the allegations contained in Paragraph Nos. 45, 46 and 47 of that portion of the Plaintiff’s complaint entitled “Count VII.”

**AFFIRMATIVE DEFENSES**

Defendants affirmatively plead the following defenses:

**FIRST AFFIRMATIVE DEFENSE**

Defendants assert all applicable defenses relating to the statute of limitations and laches.

**SECOND AFFIRMATIVE DEFENSE**

Defendants plead absolute and qualified immunity to the within complaint.

**THIRD AFFIRMATIVE DEFENSE**

Defendants plead all forms of statutory and common law immunity including the public duty doctrine to the within complaint.

**FOURTH AFFIRMATIVE DEFENSE**

Defendants plead the statutory cap on damages as a bar and restriction on the amount of damages recoverable in this matter.

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**FIFTH AFFIRMATIVE DEFENSE**

Defendants affirmatively plead the public duty doctrine.

**SIXTH AFFIRMATIVE DEFENSE**

Defendants affirmatively plead the doctrine of unclean hands.

**Defendants demand a trial by jury.**

Defendants,  
By their Attorneys,

/s/ Marc DeSisto

/s/ Ryan D. Stys

Marc DeSisto, Esq. (#2757)

Ryan D. Stys, Esq. (#8094)

DeSisto Law LLC

60 Ship Street

Providence, RI 02903

(401) 272-4442

[marc@desistolaw.com](mailto:marc@desistolaw.com)

[ryan@desistolaw.com](mailto:ryan@desistolaw.com)

**CERTIFICATION OF SERVICE**

I hereby certify, that on this 5<sup>th</sup> day of December 2019, I electronically served this document through the electronic filing system upon the following parties:

Matthew L. Fabisch, Esq.

[mlfabisch@yahoo.com](mailto:mlfabisch@yahoo.com)

[fabisch@fabischlaw.com](mailto:fabisch@fabischlaw.com)

The document electronically served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

/s/ Marc DeSisto